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LISA BARBOUNIS

Commencing at 10:42 a.m.

BEFORE THE HONORABLE JOSHUA D. WOLSON

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Official Court Reporter

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1 (Court called to order at 10:41 a.m.)

2 THE COURT: Good morning. So we are here on the
3 motion for contempt that was filed in this case in ECF Number
4 72.

5 So I've read that motion and the exhibits, and
6 obviously I'm familiar with the procedural history in this
7 case. You guys have been in front of me a number of times on
8 these matters.

9 Let me start with this: Mr. Carson, it doesn't look
10 to me like you filed a certification that I ordered; is that
11 right?

12 MR. CARSON: No. I answered all the -- all the
13 document requests. I provided written responses to the
14 document requests. And I believe I sent over a certification
15 as well.

16 THE COURT: I haven't seen a certification on the
17 docket, Mr. Carson.

18 MR. CARSON: Oh, filed a certification. I'm sorry.

19 THE COURT: Yes.

20 MR. CARSON: I guess no, I have not done that.

21 THE COURT: You know that was one of the requirements,
22 right, that was in my order?

23 MR. CARSON: I do.

24 THE COURT: Okay. So why did that not happen?

25 MR. CARSON: It's just an oversight, just an honest

1 oversight. I just didn't -- I just didn't --

2 THE COURT: Okay.

3 Have the written discovery responses been served?

4 MR. CARSON: Yes.

5 THE COURT: Okay. And Mr. Walton, from your
6 perspective, I didn't have the sense from your motion that the
7 written responses were the primary issue here, but from your
8 perspective, are they complete, or there are there still issues
9 with the written responses?

10 MR. WALTON: Two quick issues with the responses, Your
11 Honor.

12 One, I believe Mr. Carson still asserted objections,
13 but I believe they were waived as per our last hearing.

14 And the responses indicate we received several hundred
15 thousand documents, which we haven't, and that all the
16 defendants received them at the same time, which we disagree
17 with.

18 But other than that, it's the same boilerplate
19 response to every single one of the requests.

20 THE COURT: All right. The document count -- I mean,
21 the record will show however many documents were produced. I
22 assume they're being numbered somehow, so that doesn't trouble
23 me too much.

24 Mr. Carson, to the extent you include objections in
25 the document request responses, are you standing on any

1 objections?

2 MR. CARSON: I mean, I'd have to look at them. I
3 didn't think I put a lot of objections in there. I thought the
4 only ones I'd probably -- I'd have to look at them, Your Honor,
5 to answer that question in a meaningful way.

6 THE COURT: I mean, I do think there's a waiver issue
7 here if you haven't responded for -- I mean, you responded on
8 November 2nd per my order to requests that were served in I
9 think January. So I think you've got a waiver issue if you're
10 standing on any objections.

11 MR. CARSON: I mean, to the extent that there's a
12 waiver issue, I suggest it applies to both parties. You know,
13 I received my interrogatory -- responses to interrogatories and
14 document requests six months after I sent them or five months
15 after I sent them.

16 THE COURT: Well, that's not the issue in front of me,
17 Mr. Carson. I don't have a motion about the interrogatory
18 responses.

19 MR. CARSON: They agree. I guess what I'm saying is
20 that both parties were aware that each other's discovery
21 responses were late and agreed that we wouldn't make waiver
22 arguments. And I have emails from Mr. Walton to that effect.

23 THE COURT: All right. Well, I mean, I guess I need
24 to know if there's anything you're standing on.

25 MR. CARSON: It might not be an issue. You know what

1 I mean? Like --

2 THE COURT: That's what I'm saying.

3 MR. CARSON: Yeah.

4 THE COURT: If you put the verbiage in for objections
5 and you're not standing on them, then it doesn't really matter
6 and I'm not going to wade into it. If there's objections that
7 you know you're standing on as a basis to withhold documents as
8 nonresponsive, then I think I need to know that.

9 MR. CARSON: Yeah. I haven't withheld any documents
10 based on -- that I'm aware of, based on -- based on objections.

11 THE COURT: Okay. All right. So Mr. Carson, where
12 does the document production stand at this point?

13 MR. CARSON: As far as I know, every single document
14 has been produced. There are no documents that --

15 THE COURT: That includes media files, it includes
16 audio recordings, it includes pictures, you've reviewed all
17 those and produced what's responsive?

18 MR. CARSON: Yeah. I mean, I haven't reviewed every
19 picture out of the hundreds of thousands of pictures yet. But
20 yes, I mean, as far as I know, every single -- I mean, I
21 provided -- I mean, this is -- this would be a very easy
22 conversation to have if defendants had ever decided to contact
23 me one time to talk about any of this stuff.

24 But I produced like 345 other documents, including an
25 audio file and images and -- you know, like, have I gotten

1 through the hundreds of thousands of documents that Cornerstone
2 gave us? No. But we both have all those documents.

3 THE COURT: So let me break that down.

4 You have given to the defendants all of those images?
5 Because I thought that what I had heard was that the images
6 were being held back so that you could look at them because
7 there was an issue of sensitivity.

8 MR. CARSON: Yeah. So since -- since Cornerstone did
9 that, I have not looked through every single one of those
10 images, but I don't think that -- you know what I mean? I
11 don't -- I don't think that there's anything there in addition
12 to what was already produced that's discoverable.

13 THE COURT: How do you know that if you haven't looked
14 at them?

15 MR. CARSON: I mean, just because they're all just
16 family photos, Your Honor. It has nothing to do with this
17 case.

18 THE COURT: Well, there are representations in the
19 motion that Ms. Barbounis took pictures of documents when she
20 was at the The Forum. There are representations in the motion
21 that she recorded conversations while she was at work and
22 things like that.

23 So how do you know if those things are there if you
24 haven't reviewed them?

25 MR. CARSON: I mean, I haven't come across anything

1 like that. Nothing. I haven't gotten through it all, so I
2 guess --

3 THE COURT: How much is there left for you to review?

4 MR. CARSON: I don't -- I don't know. I'd have to
5 look. I don't know. But --

6 THE COURT: So how am I supposed to know --

7 Mr. Carson, I mean, I issued an order that said you were
8 supposed to produce all remaining responsive documents by
9 November the 2nd.

10 MR. CARSON: Right.

11 THE COURT: Right. How am I supposed to know if you
12 did that?

13 MR. CARSON: Your Honor, it's just -- since -- since
14 you issued that order, I've had depositions like every day
15 since then. I get -- every chance I get, I try to go look
16 through that stuff.

17 I've never one time looking through it seen a picture
18 of a document or heard an audio file that in any way relates to
19 this case or The Middle East Forum in any way, but --

20 THE COURT: Did Ms. Barbounis testify that she had
21 recorded some conversations during her work at the The Forum
22 during her deposition?

23 MR. CARSON: I don't recall, but I don't think so. I
24 mean, I think those recordings have been turned over. The ones
25 that she testified about have been turned over.

1 THE COURT: Wait. Okay. So that's two different
2 answers to my question. So start with my question.

3 Did she testify that she recorded conversations during
4 her time at MEF?

5 MR. CARSON: There was testimony about a recording
6 between Ms. Barbounis and an employee named Marty Meyer, yes.
7 So -- and that recording has been turned over.

8 THE COURT: Was there testimony about recordings with
9 conversations with anyone else, like Mr. Roman?

10 MR. CARSON: I don't recall that, but I don't think
11 so. I mean, if defendants -- if any counsel wants to correct
12 me on that, I just don't recall that. I don't think there was,
13 no, Your Honor.

14 THE COURT: Okay. Mr. Walton, what is the material
15 that you're still concerned about in the way of -- let's talk
16 about media files for a moment?

17 MR. WALTON: Your Honor, I'll try to break these down,
18 because Cornerstone uses "media files" in a very broad sense.

19 Number one, there are documents that have been turned
20 over to us with attachments where the attachments aren't there.
21 A lot of those attachments are media files. So there's
22 potentially relevant documents without attachments, number one.

23 Number two is the pictures of the documents and the
24 other photos that may be relevant to the case, not her family
25 and stuff, but her trips that she went on with MEF, her

1 relationship with Danny Thomas, Tommy Robinson, et cetera.

2 Number three is her recordings. She loved to record
3 things.

4 Mr. Gold can speak to this, but some of this stuff,
5 the reason we know it exists, it's been turned over to trade
6 secret case, which Mr. Gold is involved in, not us, not Cozen.
7 And so --

8 MR. CARSON: Turned over to who?

9 MR. WALTON: To -- I believe some of that was turned
10 over to Mr. Gold as part of the trade secret case, and then it
11 was pulled back when they found the censored materials.

12 So we, Cozen, in the case before Your Honor have not
13 received those materials.

14 THE COURT: Okay. Let me drill down on each of those
15 categories then.

16 So let's start with the documents with attachments.

17 Have you -- start with this.

18 Mr. Walton, have you identified for Mr. Carson the
19 documents with attachments that you've seen where you don't
20 have the attachments?

21 MR. WALTON: No. I think we put some exemplars in our
22 motion, but there are numerous. Ms. Benson is on the phone --
23 or on the conference, she can speak to this better than I can,
24 but my understanding is there's thousands.

25 THE COURT: Okay. So who is segregating the files

1 from the -- from the attachments? In other words, is that
2 being done by Cornerstone, or is that something, Mr. Carson,
3 that you're doing?

4 MR. WALTON: It was being done, my understanding --
5 and I'm sorry if you didn't direct that at me, Your Honor. But
6 my understanding is that it's being done pursuant to Judge
7 Sanchez's order in the trade secret case. But Mr. Carson and
8 Mr. Gold can speak to that better than I can.

9 THE COURT: Mr. Carson, why don't you tell me.

10 I mean, is the -- in the ordinary course of things in
11 discovery, I would expect you to maintain some sort of
12 relationship between the document and its attachment and its
13 production in order to be forensically sound.

14 So what's the basis for separating them?

15 MR. CARSON: I'm not sure I understand what you mean.

16 THE COURT: So if an email has an attachment,
17 Mr. Carson, you know, typically they are produced with either
18 some metadata to indicate the relationship, they're produced
19 together. I mean, I assume you're producing things here in
20 some sort of document review format, document review tool,
21 whether it's Relativity --

22 MR. CARSON: No.

23 THE COURT: You're producing stuff as PDFs?

24 MR. CARSON: Yeah. I don't even know how we're doing
25 it. I have no idea.

1 THE COURT: What tool are you using to look at the
2 documents, Mr. Carson?

3 MR. CARSON: Whatever Cornerstone gave us.

4 THE COURT: What is it? When you log in, what program
5 is it?

6 MR. CARSON: I don't know. I don't know what it's
7 called.

8 MR. WALTON: It's called, Junto, Your Honor.
9 J-U-N-T-O.

10 THE COURT: And is it a typical document review tool
11 with --

12 MR. WALTON: Yeah. It's like Relativity Light.

13 THE COURT: Is there metadata associated with the
14 files?

15 MR. WALTON: Yes.

16 THE COURT: Okay. So Mr. Carson, typically if you
17 produce a file that has an attachment, there's metadata that
18 indicates that and that maintains the relationships so they can
19 see that when they get it.

20 Are these things being separated? In other words, if
21 an email comes around and you tag the email from production,
22 does the attachment get tagged as well?

23 MR. CARSON: Your Honor, I have no idea. I don't
24 know.

25 THE COURT: Don't you need to know that if you're

1 trying to fulfill your discovery obligations?

2 MR. CARSON: I'm not the one producing it.

3 Cornerstone produced it.

4 THE COURT: No. Mr. Carson, Cornerstone is generating
5 the document files.

6 MR. CARSON: But they're giving it to us both at the
7 same time. They have equal access to it.

8 THE COURT: I thought they don't have equal access to
9 some of these media files?

10 MR. CARSON: I guess. I mean, some of the pictures,
11 the family photos and things like that, were held back,
12 because --

13 THE COURT: Cornerstone didn't go through and figure
14 out which media files were family photos and which ones
15 weren't. Right?

16 MR. CARSON: No, I don't think they did that.

17 THE COURT: So they just held back media files en
18 masse. Right?

19 MR. CARSON: Right.

20 THE COURT: And if there was a media file attached to
21 an email, then it sounds to me like Cornerstone separated those
22 and maybe made the email available but held the attachment
23 back; is that right?

24 MR. CARSON: I guess, if that's what Mr. Walton is
25 saying happened. I don't know, because I've never received a

1 single phone call from anyone who is representing defendants to
2 just talk to me about this and explain --

3 THE COURT: Mr. Carson, don't you need to know what
4 Cornerstone is doing if they're making a production of your
5 client's materials?

6 MR. CARSON: Sure, yeah, I do, but I was overruled in
7 that aspect, so...

8 THE COURT: What do you mean, you were overruled? You
9 were told you aren't allowed to have the information?

10 MR. CARSON: Yeah. I was told I wasn't allowed to
11 have the information first.

12 THE COURT: I'm not asking first.

13 But don't you need to know what they're doing? I
14 mean, just to answer these questions, don't you need to know?

15 MR. CARSON: Yeah. I mean, I have an idea what
16 they're doing. I've logged in and looked at it. I'm
17 100 percent certain I have not looked at everything they've
18 looked at, you know, because I don't have any kind of
19 e-discovery tools.

20 THE COURT: That's not what I'm asking you,
21 Mr. Carson. I'm trying to understand what you're doing to
22 fulfill your discovery obligations.

23 And again, I am not interested in what you were told
24 in the trade secret case. If you're leveraging the production
25 in the trade secret case to fulfill your discovery obligations

1 in this case, that's fine. That may be an efficient way to go
2 about it.

3 But you've got your discovery obligations in this
4 case, and I need them to be fulfilled. And I don't know how
5 you can be fulfilling them if you don't know what's being
6 produced and, you know, you don't know what's -- you know, you
7 don't know what's being produced and you don't know what
8 methodology is being used.

9 MR. CARSON: Your Honor, I've said on the record, one
10 of the ways that Cornerstone produced information is in like
11 snippets.

12 So during depositions, you know, they'll put a text
13 message. It will be like one sentence, you know. There's no
14 context. And I've told defendants during every single
15 deposition that's taken place in this case so far, why don't
16 you guys call me when this deposition is over so we can discuss
17 trying to get some context for these text messages, you know.
18 And I was like, I'll agree to give you information from before
19 and after so we can see what's being spoken about here.

20 And I think this is relevant in the context of if
21 there's attachments that are part of these messages or
22 attachments that are part of these emails, I have no problem
23 turning those over so that we can understand what the
24 attachments are.

25 But, you know what I mean, I don't know what

1 defendants are even talking about here.

2 And they've never called me to discuss it with me and
3 instead -- this is like the 80th, you know, contempt motion
4 they filed against me. Before any of these contempt motions,
5 they don't call and talk to me, because they're more interested
6 in -- you know, how am I supposed to produce discovery if
7 I'm -- all I'm ever doing is responding to contempt motions.

8 And by the way, that's the point. That's the point of
9 what they're doing, so --

10 THE COURT: Mr. Carson, first of all, let's set the
11 hyperbole aside, okay, because it's the second time they've
12 come to me on contempt, not the 80th.

13 MR. CARSON: If you add them all together, Your Honor,
14 in all the cases, it's probably the 15th.

15 THE COURT: I'm not interested in the other cases,
16 Mr. Carson. I told you that last time.

17 MR. CARSON: Okay.

18 THE COURT: Okay? You guys collectively made a
19 decision not to seek to consolidate these cases. Right? We
20 talked about this in January when you were here for the
21 Rule 16. And it was apparent then that there were a whole
22 bunch of these, that there was going to be a lot of overlap.
23 You chose to file them separately. You didn't mark them as
24 related or file them as a single action, Mr. Carson. And the
25 fact that, you know -- and I've pointed this out to Mr. Walton

1 and Mr. Gold too. They also made a decision not to move to
2 consolidate. So that has consequences for everybody. But one
3 of those consequences is that you've got a whole bunch of cases
4 running in parallel with independently existing discovery
5 obligations. Okay?

6 So in my case that's in front of me, I have discovery
7 obligations. I'm not interested in what's going on in the
8 other cases. I'm interested in this case and in moving this
9 case forward.

10 And I'm not getting clarity here. And I'm not getting
11 clarity on what exactly has been produced. I'm not getting
12 clarity on what the methodology was. And I don't know whether
13 you're in compliance with my order or not. It sounds like the
14 answer is no, because there's no doubt that you haven't looked
15 at and produced everything, but I don't know.

16 I mean, I guess it's possible that in amongst those
17 files there's nothing responsive. Right?

18 But the problem is, you can't tell me that. And you
19 can't file the certification of compliance that I ordered on --
20 in October. You know, I ordered it on October 26th that you
21 were supposed to do it by November 2nd. And you can't do that
22 because you're not in compliance, or at least you don't know
23 you're in compliance. Maybe you are by blind luck, but you
24 don't know that you are.

25 MR. CARSON: I think that's right.

1 THE COURT: And so the question is, you know, I need
2 you to get this done. I thought I made this pretty clear when
3 we were on the phone three weeks ago or on the Zoom call three
4 weeks ago that this case needs to come to a close. Discovery
5 in this case needs to come to a close. And the only way to do
6 that was to get the documents out of the door so that these
7 depositions could take place. And so I don't know where we
8 stand.

9 MR. CARSON: I guess I thought I was in compliance,
10 Your Honor, and that if I wasn't, I think that there should be
11 some sort of opportunity -- you know, if defendants are
12 suggesting that there's stuff they still need that they think I
13 can get to them, then a simple discussion about that would
14 probably -- and then a call to Cornerstone would probably
15 facilitate that.

16 THE COURT: All right.

17 Mr. Walton, we -- I talked about the documents with
18 the attachments. There's pictures and other photos and things
19 like that.

20 Are you suggesting those things exist sort of as
21 standalone documents independently from being attachments, or
22 are you just saying those are the type of things that are
23 attachments? Because that is the second category I wrote down
24 when you --

25 MR. WALTON: If I'm following, Your Honor, and I

1 apologize if I'm not, I think it's a little bit of both. It's
2 mostly attachments to documents and some standalone recordings
3 and stuff.

4 THE COURT: Are the recordings standalone things or
5 are they attachments that Ms. Barbounis sent along as well?

6 MR. WALTON: I believe they're mostly attachments.

7 THE COURT: And what was her testimony with respect to
8 the recordings, Mr. Walton? Was it that she recorded
9 conversations on a regular basis or that there were a few that
10 she had recorded?

11 MR. WALTON: I didn't attend her deposition. Mr.
12 Cavalier and Mr. Gold did. We don't have a transcript yet. My
13 understanding is that she admitted to one or two conversations
14 but that the evidence that we have shows that there are likely
15 many, many more.

16 THE COURT: And what is that evidence?

17 MR. WALTON: That evidence is evidence from other
18 witnesses about recordings. It could have been some of the
19 stuff that was turned over in the trade secret case that Cozen
20 doesn't have access to yet. And, you know, testimony and
21 memory from Greg Roman and other people that we have.

22 THE COURT: Let me ask, is there a reason why --
23 Mr. Carson and Mr. Gold, maybe you know this from your role in
24 the trade secret case -- why whatever's been produced in the
25 trade secret case can't be made available to Cozen in this

1 case?

2 MR. GOLD: I think there was a confidentiality order
3 entered in that case. I'm not sure, Your Honor. But my
4 understanding is the order only allows counsel of record in the
5 trade secret case to have access to the files and documents and
6 data that's on the Junto platform.

7 However, just so I can add, the trade secret case, the
8 search terms that were used were limited to -- I believe there
9 were 25 search terms, but they're all limited to the trade
10 secret case. So information that was made available to us
11 through discovery, and that's on the Junto platform, probably
12 none of that -- a portion of that may be related to this case.

13 However, as I understand it -- I don't know whether
14 any search terms were ever provided in this case, but that
15 information is readily available to Mr. Carson. He is counsel
16 of record. All he has to do is go on the platform, enter his
17 password, and he's on there. He can search documents. He can
18 do whatever he needs with regard to that.

19 But that discovery is not in any way, shape or form
20 related to this case in the sense that it limits the
21 information that we need in this -- in the employment case.

22 THE COURT: I understand that. But I mean, if it's
23 been supplemental to what's been produced in this case and it's
24 part of what's out there, then I'm just trying to figure out if
25 there's a way to move things along.

1 You know, look, there's no search terms in this case.
2 You know, some of that is a function of the delays, you know,
3 the defendants engaged in too in terms of pursuing discovery in
4 this case. And we're not just going to reset things --

5 MR. GOLD: Right.

6 THE COURT: -- and give everybody a pass.

7 MR. GOLD: Your Honor, by the way, the data or the
8 files available on the trade secret case have been available
9 now for months. And the reason that we had difficulties with
10 that, 'cause we had -- because of interactions we had with
11 Mr. Carson. But I'm not going to go into that.

12 But the platform that we're using is relatively easy,
13 I mean, to use. I'm not by any means an expert in the database
14 programs, but I'll tell you, I've been able to use it. I've
15 been able to search for terms. And Mr. Carson has total access
16 to that.

17 What he's complaining about is that at some point in
18 time, Judge Sanchez lost his patience and said, okay, just turn
19 everything over to Cornerstone. And some of that is identified
20 as attorneys' eyes only. Some of it is anyone can access it.
21 But he's had access now for months. I mean, it's all there.

22 But I think what Mr. Walton is stating in this case is
23 that the documents that are related to this case have not been
24 turned over, and the documents in the trade secret case are not
25 a substitute for what needs to be turned over in this case. I

1 don't expect -- we have hundreds of thousands of documents that
2 have been -- that are on the platform right now because of the
3 search terms we used.

4 But the cases have no relationship to each other in
5 terms of the factual issues or the legal issues.

6 MR. CARSON: The parties are the same.

7 THE COURT: All right. Yeah. I have a couple of
8 questions.

9 I mean, one of the issues that's floating around here
10 is the issue about Telegram which we haven't talked about yet.

11 Mr. Carson, have you talked to -- have you done
12 anything to try and retrieve messages from Telegram from
13 Ms. Barbounis's account?

14 MR. CARSON: Yeah. We have not been able to retrieve
15 any messages. We tried -- it's my understanding that Lisa gave
16 all the two-factor authentication to Cornerstone and they
17 weren't able to retrieve any of them either. I can double
18 check that for you again, but that's what it happened to be.

19 THE COURT: Okay. Have you conveyed that to
20 Mr. Walton, that that effort was made?

21 MR. CARSON: I've had no meaningful conversations with
22 the defendants about discovery since the last time we spoke.

23 THE COURT: Mr. Walton, do you have any reason to
24 think -- I know with some social media accounts, for example,
25 there are ways to pull down and download your history.

1 Do you have any reason to think that that is feasible,
2 that you can scrape the data out of Slack -- out of Telegram?

3 MR. WALTON: Yeah. I have to talk to -- I mean, it's
4 the first time I'm hearing about the Telegram accounts.

5 We have been able to pull them down for our witnesses.
6 I would have to talk to Cornerstone to see what the issue is
7 and get a better understanding of it.

8 THE COURT: I want to get that done. I want to
9 understand what they're doing and whether it can be pulled
10 down.

11 I mean I think, you know, if the issue is, well, you
12 have to go through and do screenshots of messages and things
13 like that, that seems potentially unreasonable, depending on
14 how many messages it is and things like that, you know.

15 But if there's a way to scrape the data and put it
16 into a review tool or something like that, then it needs to be
17 done. And I want that to happen.

18 MR. WALTON: Would you like me to connect with
19 Cornerstone, Your Honor, and then update the Court by letter?

20 THE COURT: Yes. I want you to do that.

21 Mr. Carson should be on the call too.

22 MR. WALTON: Certainly.

23 THE COURT: I want everybody on the same page. I want
24 to know what Cornerstone says. And if there's not clarity,
25 then I'm going to get Cornerstone on the phone and figure it

1 out.

2 All right. Let me ask a couple questions, Mr. Walton.

3 At this point as you sit here right now, are there
4 materials that you need from Ms. Barbounis for The Forum to
5 prove its counterclaim?

6 And I want to focus on the counterclaim for a minute
7 first.

8 Or is the material that you would get from
9 Ms. Barbounis really to flesh out her defenses?

10 MR. WALTON: It's both, Your Honor. I'm sorry for the
11 delay. It's a little bit of both. I mean, I think a lot of
12 attachments and the multimedia relates to the Tommy
13 Robinson/Danny Thomas issues, which of course have crossover
14 relating to both to our counterclaim and some of our defenses.

15 But it's hard to tell until we get everything. And
16 we're still going through that 90,000 -- 90,000 documents that
17 we got.

18 And I would suspect, if we want to be complete with
19 discovery, that we should probably ask for some other search
20 terms.

21 But in terms of efficiency, I wanted to get what we
22 could first, assess it, and then perhaps ask for more search
23 terms.

24 THE COURT: I mean --

25 MR. CARSON: Your Honor, just so you know, the search

1 terms in the case were Tommy Robinson, Danny Tahoe (ph), The
2 Middle East Forum, Daniel Pipe. It's all the same search terms
3 that were used in this case.

4 THE COURT: I'm not wading into what the search terms
5 are. And I will tell you, I mean, again, I understand the
6 problems you face, Mr. Walton. I understand why you want more
7 search terms and more documents and things like that.

8 You know, I look at the timeline, though, in this
9 case. And there is an issue, you know, where it took months
10 and months and months for The Forum to follow up on its
11 discovery requests. And, you know, I don't think that we
12 should just reset discovery by starting ESI again with new
13 search terms. This case needs to come to a close. And the
14 time to do search terms was in June and July and August, it's
15 not now at the very end of discovery.

16 And if there were problems getting the documents then,
17 then the issue should have been brought to my attention then.
18 And so that's why I'm hesitant on some of these issues. Okay?

19 MR. WALTON: May I respond to that real quickly, Your
20 Honor?

21 THE COURT: Yep.

22 MR. WALTON: In June, July and August, Mr. Carson
23 didn't have possession of the materials anymore. My
24 understanding is that they were in Cornerstone in an order
25 governed by Judge Sanchez.

1 THE COURT: That's not my case. And if there was a
2 problem, you should have brought it to me then. And if it
3 needed coordination with what was going on with Judge Sanchez's
4 case, we could have dealt with it then.

5 If it was -- you know, but it seems like what happened
6 is you basically put the discovery in this case on the back
7 burner because of what was going on in the trade secret case.

8 And my problem with that is that, you know, I have a
9 case that I need to move forward. And, you know, you waited
10 until very late in the process. I mean, we're ten months into
11 discovery, which is an extraordinarily long time for discovery.
12 I don't typically allow that kind of time in discovery in my
13 cases. I think they can move faster than that.

14 And I'm being told now that, you know, we're basically
15 going back to -- I don't know if it's square one, but it's
16 square two in terms of the discovery process if we're talking
17 about ESI search terms.

18 MR. WALTON: Well, I think most of what we got -- most
19 of what -- I haven't seen the search terms, but I've heard
20 they're broad. So I think most of what we got is what we're
21 going to get. We started taking depositions. We've taken
22 Ms. Barbounis's deposition all ready. We took Ms. McNulty's
23 deposition.

24 I hear what Your Honor is saying. We are moving
25 forward. I'm not proposing that we go back to square one and

1 we start discovery all over. I think in some sense, we're
2 going to get what we're going to get, and we need to move
3 forward.

4 And I agree with that. And we are planning to move
5 forward. We have a deposition set for Mr. Roman, Mr. Pipes,
6 Mr. Fink, a couple board members. So the case is moving along
7 in terms of depositions.

8 THE COURT: Right. And I understand that. I mean,
9 you know, there's an order that requires them to happen.

10 I just -- you know, there's a tension in what you're
11 telling me, Mr. Walton, because on the one hand you're saying,
12 well, I need to go back and do new search terms. On the other
13 hand, you're telling me that you have most of what you think
14 you're going to get. You have them in a way that you can
15 certainly run your own searches and hone in on the stuff you
16 want.

17 You know, if there are some gaps in what's being
18 provided -- I mean, I am troubled about the media files, that
19 that's something that needs to be dealt with. But it doesn't
20 sound like there's a lot of other documentary information. I
21 mean, maybe there's some Telegram stuff that may or may not be
22 recoverable, I just don't know. But otherwise, it just doesn't
23 sound like there's a ton of additional material to be given.
24 It's really these media files.

25 MR. WALTON: It's the media files, Your Honor, and

1 also like Mr. Carson was saying earlier, the text messages.

2 MR. CARSON: I was about to say that too.

3 MR. WALTON: We only have, Your Honor -- I can try to
4 use my hand to explain it to you.

5 You know how you have a string of text messages --

6 THE COURT: Yes.

7 MR. WALTON: -- with a bunch of different bubbles?

8 THE COURT: Yes.

9 MR. WALTON: So we only have the bubble with the hit.
10 Nothing above it, nothing below it, just the bubble with the
11 hit.

12 THE COURT: I don't understand what Cornerstone is
13 doing then, because to me, if you're going to produce the text
14 messages, you need some sort of threading process in order to
15 get that information.

16 I would have thought that's a relatively
17 straightforward process. Either you get the whole text
18 message, or alternatively, they load the text messages into
19 this platform and then there's some metadata that indicates the
20 relationship so that you can see the thread.

21 If that's not what Cornerstone is doing, then they
22 need to fix that, because every time I ever looked at text
23 messages in my private practice in discovery, that was
24 certainly what we did, was we got the threading information and
25 we were looking at the text message chains as a whole. So I

1 don't understand why they would be doing that.

2 MR. WALTON: I think part of it was Judge Sanchez's
3 order, because part of the order was they could only produce
4 the bubble with the hit, and if you needed context, it was on,
5 you know, Mr. Gold or MEF's counsel to ask for more context.

6 So when Seth was trying to leverage that production to
7 us, I believe that they just turned it over in the same way. I
8 don't know why, but I think that originates back with Judge
9 Sanchez's order.

10 MR. CARSON: Your Honor, I've offered to help deal
11 with this problem, though, like four times now. I think the
12 solution is easy.

13 Because there's a lot of text messages, right, that
14 are between her and -- they're really personal, private stuff.
15 We're talking about hundreds of pages, and the whole thread is
16 not relevant.

17 So like where there's a hit, I said, let's identify
18 the ones that you think you're going to use in the case and
19 tell me what they are, and then I'll produce -- I can
20 facilitate the production of the context, like 24 hours before
21 and after the hit so everyone can see what's being spoken about
22 there.

23 And I've said that on the record in every deposition
24 that has taken place in this case so far. And defendants
25 haven't taken me up on that at all. And I put that out there

1 again as an option to try to deal with it.

2 MR. WALTON: This wasn't raised until our very last
3 dep.

4 MR. CARSON: You weren't at the other deps. It was
5 raised at every deposition so far.

6 MR. WALTON: Mr. Gold can speak about that. But they
7 haven't been produced. We asked for the text messages --

8 MR. CARSON: You haven't asked for them.

9 MR. WALTON: Excuse me.

10 THE COURT: Okay. I don't want crosstalk. Okay?
11 Enough.

12 All right. I think I've heard what I need to hear,
13 but I'm going to ask you guys all to hold on, because I want to
14 take a recess -- actually, I'm reminded, I have one other
15 question.

16 There was an issue mentioned in the motion about
17 redactions of some of what was produced.

18 Mr. Carson, I think it was your recent production
19 materials were redacted; is that right?

20 MR. CARSON: I don't think so, no. I think -- for all
21 the redactions that I provided documents for, there was a
22 redaction log. It was pretty limited.

23 THE COURT: The motion says the production on November
24 4th had a lot of redactions.

25 Mr. Walton, am I reading correctly?

1 MR. CARSON: Your Honor, this is the exact same
2 redactions that we dealt with earlier this year, where you
3 ordered to us provide a redaction log and to unredact stuff,
4 and that's all been done.

5 THE COURT: So you're just reproducing stuff on
6 November 4th?

7 MR. CARSON: No. Like I don't think I redacted
8 anything on November -- in the new stuff that I gave them on
9 November 4th. Again, I guess maybe ask Dave about it.

10 THE COURT: Mr. Walton, were there new redactions on
11 the 4th?

12 MR. WALTON: Yes.

13 MR. CARSON: Where?

14 THE COURT: Okay. So let me...

15 Mr. Carson, this says that there were 274 documents
16 produced on November 4th, including data pulled from Ms.
17 Barbounis's Twitter and Instagram accounts, and those documents
18 are heavily redacted without explanation.

19 So was that stuff that was produced before?

20 MR. CARSON: No. I don't even know what they were
21 talking about before. I didn't produce anything from Twitter
22 accounts, and I didn't redact anything.

23 Can they give a Bates stamp number as, like, an
24 example?

25 MR. WALTON: I think we had some exhibits to our

1 motion, Your Honor.

2 THE COURT: The motion -- let me see. Because the
3 motion --

4 MR. WALTON: It's like 90-some pages.

5 MR. CARSON: I mean, I can look right now. I'm in
6 front of my computer.

7 I don't recall redacting anything, and that was a week
8 ago.

9 MR. WALTON: We definitely have redactions.

10 THE COURT: I don't have anything here that's redacted
11 in front of me, or at least not -- I see text messages that
12 you're sending that you attached. I don't see any redactions.

13 So I don't really have any context for this.

14 MR. CARSON: I'm looking at it right now, and there's
15 no redactions.

16 THE COURT: Then you guys may need to work on --

17 MR. WALTON: Just -- Your Honor, I can explain just
18 quickly.

19 When Mr. Carson produces documents, he does it by
20 Dropbox. And he'll say -- he'll send us an email. He'll say,
21 there's some more documents on Dropbox for you.

22 So we got a link from Cornerstone on November 4th with
23 no explanation of what it was. And that's the information,
24 Seth, that we're talking about on November 4th.

25 MR. CARSON: A link from Cornerstone?

1 MR. WALTON: Yes.

2 MR. CARSON: Again, I mean, instead of filing a motion
3 for contempt, maybe --

4 THE COURT: Okay. Mr. Carson, I don't want -- I
5 understand you're trying to get some information, but I don't
6 want argument back and forth between you. This isn't the time
7 or the place.

8 MR. CARSON: Sorry.

9 THE COURT: We're going to take a recess. I'm going
10 to turn off my camera and mute myself. You're welcome to do
11 the same. I'd like you back in front of your screens by 11:30
12 so that we can resume when I'm ready.

13 MR. CARSON: Your Honor, can I ask you one other
14 thing?

15 THE COURT: Yes.

16 MR. CARSON: In the counterclaim, I served some
17 document requests. I don't think I served any interrogatory
18 requests, just document requests, asking them to produce
19 whatever documents they have that confirms or supports their
20 claims alleged in the counterclaim.

21 I think the 30-day deadline for that is like two days
22 after fact discovery, so I just wanted to -- I think plaintiff
23 or counterclaim defendant has a right to review documents if
24 they're going to support a counterclaim against her in order to
25 make a valid consideration of dispositive motions.

1 THE COURT: I'm not sure what you're asking me,
2 Mr. Carson. I'm not going to give some legal advice or
3 advisory opinion about how you're managing your discovery.

4 MR. CARSON: I just -- since the deadline is two days
5 after the end of fact discovery, I just wanted to maybe ask
6 whether or not, you know, they could have to respond to that,
7 those documents.

8 THE COURT: I don't have a live dispute in front of me
9 right now about that, Mr. Carson. I don't know what their
10 position is going to be. I don't have a motion in front of me.
11 You guys haven't met and conferred. So it's certainly not a
12 ripe issue, so it's not one that I'm prepared to provide an
13 answer to.

14 MR. CARSON: Understood. Thank you, Your Honor.

15 THE COURT: We're going to stand in recess. Be back
16 by 11:30. Thanks.

17 (Recess at 11:24 a.m. until 11:41 a.m.)

18 THE COURT: All right. Here's where I am on this.

19 I think that the discovery process in this case has
20 been something of a hash. And I think everybody bears some
21 responsibility for that, as I've indicated before.

22 Mr. Carson, it's not clear to me that what you've been
23 doing is fulfilling your discovery obligations in the case.

24 I know this is not exactly the normal case for you,
25 but you don't seem to be -- you don't seem to understand the

1 e-discovery process here. You don't seem to understand the
2 platform you're using. And I understand there's some interplay
3 with the trade secret case, but, you know, documents are being
4 pushed out without review, and it's not clear to me that you
5 understand some of the technical implications around all that,
6 which is troubling to me.

7 I do think, Mr. Carson, that you in significant ways
8 ignored my order of October 26th. I didn't get the
9 certification that was required. And as you've acknowledged,
10 you're not in a position to file that certification.

11 That's troubling to me. I think what I tried to
12 convey at the last hearing and what the order tried to convey
13 is that I expected a fairly herculean effort to get the
14 documents out and produced so that discovery could wrap up in
15 this case. There was an effort but I don't know there was a
16 herculean effort to really kind of just buckle down and get
17 everything done.

18 In terms of the remedy here, I think, you know, my
19 view is somewhat tempered, as I've said before, by the fact
20 that some of this is a mess of The Forum's making in terms of
21 the pacing of discovery meet and confers. There's something of
22 a wait and hurry up approach.

23 Again, I know that there's an interplay with the trade
24 secret case. I know there's interplay with these other cases.
25 But you all made a decision not to coordinate them or ask the

1 various judges who had them to coordinate them. And the
2 consequences of that were that they had to proceed on parallel
3 tracks and not have one take the lead.

4 And contempt is at bottom an equitable remedy, and so
5 I consider everybody's conduct.

6 So here's what I want to do. I am going to take these
7 category by category based on what I've heard.

8 For the media files that are outstanding, I want a
9 report from Cornerstone regarding the number of media files
10 that are out on the database. I want that broken down by type
11 of file, and I want it categorized in terms of static pictures,
12 videos and audio files. I want to see what kind of file
13 extensions they are. And I want to -- I want all -- all of you
14 are going to talk with Cornerstone to get me that report. I
15 want that report by the end of Monday at the latest.

16 And I want to know from that report what documents
17 have been reviewed and what documents still need to be reviewed
18 for production in this case. I'm not interested in the trade
19 secret case and whether they've been produced in the trade
20 secret case. I want to know what has to be reviewed in this
21 case.

22 Some of that may get overtaken by a couple of my other
23 orders -- by some of the rest of this, but I want that done for
24 the media files in case there's standalone media files or media
25 files that were attached to emails that have not yet been

1 produced, so I want to know that for all media files.

2 With respect to the text messages, I want all threads,
3 all text conversations in which there has been a hit to be
4 produced. I understand that may capture some stuff that's not
5 responsive. If there's stuff that needs to be designated
6 attorneys' eyes only for confidentiality purposes, that's fine,
7 but I want all text threads produced if there's a hit in any of
8 them.

9 So Mr. Walton, it will probably fall to you in the
10 first instance to identify the threads in which there's been a
11 hit. I want that given to Mr. Carson. And then the three of
12 you can make arrangements with Cornerstone to get the threads
13 produced. And it should be produced with whatever metadata is
14 necessary to maintain the complete text thread.

15 So I'm going to want a report on all of this by the
16 end of Monday as to what the status is and when it's going to
17 be done. And to the extent any of this can be done by the end
18 of Monday, I want to see progress on these materials being
19 produced by the end of Monday, because there's not a lot for
20 Cornerstone to do in terms of slicing and dicing the
21 information they have. A lot of it is going to be pushing it
22 out.

23 On Telegram, I want you guys to have a conversation
24 with Cornerstone. I want all of you to participate in that
25 conversation. And I want to know what has been done to date in

1 an effort to get the information that's on Telegram. I want to
2 know what problems Cornerstone has encountered and whether
3 there's any possible solutions to them. And if they're not, if
4 they're not retrievable, I want to know that too, but I want to
5 know all of it. And I want to know that by the end of Monday.

6 With respect to the attachments, for any email that
7 has been produced that has an attachment, I think the entire
8 family needs to be produced. So that means the email with
9 attachments. And you can either -- I think what should happen
10 is assuming that Cornerstone can do it, it should push out the
11 attachments along with metadata so that the parent-child
12 relationship can be maintained and identified.

13 If that can't be done, then I guess a second best
14 approach would be to reproduce everything with the attachments
15 and the metadata, but that's going to require some additional
16 work to go back and identify and match up the new production to
17 the old documents.

18 So if that is what has to happen, if the documents
19 have to be pushed out that way with the reproduction, then
20 Cornerstone needs to generate a report, which they should be
21 able to do from the MD5 hash information in the metadata as to
22 where the overlap is in the documents. And that report needs
23 to come as well.

24 And so I want that information. I want the report by
25 Monday as to the process of getting that done. And I want a

1 hard deadline as fast as possible. If Cornerstone can do it by
2 Monday, I want them to do it.

3 So I think that those are the things for Cornerstone
4 for you guys to deal with. Most of them require you to deal
5 with Cornerstone and come back with a couple of things. I
6 pretty strongly recommend that when we hang up here or
7 disconnect here, that you guys reach out to Cornerstone and try
8 to set up a call today because I don't want to hear that you
9 tried to get them on Monday and you couldn't be available until
10 Tuesday and so forth and so on. I want that process moving
11 so that --

12 MR. CARSON: Your Honor, I'm going to be in a
13 deposition for the rest of the day today. I'm in one now.

14 THE COURT: Then, Mr. Carson, you're going to have to
15 find a way to take a break from that and at least reach out to
16 Cornerstone. I'm sorry, but I want answers to this by the end
17 of Monday.

18 MR. WALTON: We can reach out to Cornerstone and keep
19 you posted, Mr. Carson.

20 MR. CARSON: I can't do it today. I mean, I took a
21 huge break today for this.

22 THE COURT: I'm not interested in hearing "I can't do
23 it," Mr. Carson. Okay? I mean, a deposition is something that
24 has some flexibility to it. A court order is not. So unless
25 that deposition is taking place pursuant to a specific court

1 order that you can send me that shows me that you have no
2 flexibility, then you're going to have to work around my court
3 order.

4 I'm not asking you to spend the rest of your day on
5 this, but I am asking you to find time to talk to Cornerstone,
6 whether it is after the end of the deposition, whether it is
7 another half hour break from the deposition, I don't know, but
8 you're going to do this.

9 And then the other issue that's out there is the
10 redaction issue. You know, I can't tell from the arguments
11 what was redacted. I don't have examples. I don't have a log.
12 I think you all need to meet and confer. And again, I want
13 that in your report to me on Monday.

14 I want to know what you've discussed. I want to know
15 what the answers are. If there were redactions in documents
16 that were produced on November 4th, then, Mr. Walton, identify
17 some of those to Mr. Carson by way of example so he can see
18 what they are. Mr. Carson, give them an explanation as to the
19 basis for the redactions. And if there's a log that needs to
20 be done as to the redactions, I want to know that too. And I
21 want all that done by Monday.

22 I want all of this, the status report by Monday. I
23 want it filed as a status report on the docket. I don't just
24 want a letter. So I want all that done.

25 And then the last thing, as far as this goes, as I

1 said at the outset here, I do think some of this, there was a
2 delay in dealing with discovery through this case, but a lot of
3 where we are now is a function of I think a combination of
4 Mr. Carson not really grasping or fulfilling discovery
5 obligations, including obligations that have come -- you know,
6 have been suggested from the ABA that everybody be technically
7 facile in this day and age, coupled with not following my
8 October 26th order.

9 So the last two things then that I'm going to want to
10 do is this.

11 Mr. Carson, I'm going to order you to pay the fees
12 that were incurred for them to prepare this motion.

13 And so today's the 13th. So Mr. Walton, I'll give you
14 till next Friday, the 20th, to put in a fee petition. And
15 then, Mr. Carson, you can look at the fee petition and respond
16 to it by -- let's say by -- I know Thanksgiving comes in there,
17 so --

18 Respond to it by the 11th, Mr. Carson.

19 And the fees go to preparing the motion and for this
20 hearing.

21 And then the last thing, Mr. Carson, once I get that
22 report from Cornerstone about the files that are -- the media
23 files that are out there. And, you know, it may be that
24 there's not that many left to review once the attachments are
25 all produced per my order, but to the extent that there are

1 still media files that need to be produced, I want to see daily
2 updates on the progress of that. And I want those by email to
3 my chambers.

4 So I'm going to get a report from you on Monday about
5 what's out there.

6 Hopefully what you can tell me is both what's out
7 there in the way of media files but also how many of them are
8 attachments that are going to be produced and what that's going
9 to lead for review.

10 MR. CARSON: How am I going to get you that
11 information?

12 THE COURT: You're going to email me to the Chambers
13 account, Mr. Carson, you're going to copy counsel in the case
14 how many files you've reviewed on a daily basis so that I have
15 information about the progress that's being made. I want to
16 know the files that have been reviewed and the amount of time
17 that's spent reviewing them on a daily basis. And you're going
18 to send emails to my Chambers account telling me that.

19 MR. CARSON: Your Honor, if everything was produced, I
20 have to pay for them to file a motion when every possible thing
21 in the case was already produced?

22 THE COURT: Mr. Carson, you're paying for them to file
23 a motion because it's clear to me that not everything is -- or
24 if everything has been produced, it's by blind luck.

25 MR. CARSON: No, it's not by blind luck. It's by all

1 the work that I've done in the case.

2 THE COURT: You'd better be really careful. This is
3 not the time you want to be arguing with me and snippy with me
4 about this, Mr. Carson. I'm going to tell you right now that
5 you conceded earlier on the record that you can't file a
6 certification right now that you're in compliance with my order
7 of October 26th because you haven't reviewed all the media
8 files. You don't know what's in those media files, so you
9 can't sit here and tell me that you know definitively that all
10 responsive materials have been produced.

11 MR. CARSON: Right.

12 THE COURT: Okay? So that's why I'm ordering a fee
13 award. You haven't complied with my order.

14 And so, you know, I don't know what else is out there.
15 I don't know about the email attachments, but it seems to me
16 that those are things that need to be dealt with in the course
17 of discovery ordinarily in any case with a heavy e-discovery
18 load. And it just hasn't been handled correctly here.

19 Okay. So that's -- we'll get you an order that, you
20 know, lays some of this out, but it's just going to refer back
21 to what's on the record. So to the extent there's questions, I
22 am going to recommend someone order the transcript so you have
23 it, because it will lay out a lot of my reasoning. But we'll
24 get you an order as well onto the docket.

25 So I'll look forward to your report.

1 As I said, I recommend that you try to get a hold of
2 Cornerstone, at least start the conversation today.

3 All right? And with that, we're going to stand
4 adjourned.

5 MR. CARSON: Your Honor, I have another question.

6 THE COURT: Yes.

7 MR. CARSON: So you ordered every text thread has to
8 be produced. That's basically every text she's ever sent.

9 I mean, that's totally overly broad, unduly
10 burdensome, not calculated to lead to the discovery of
11 admissible evidence, it's not proportional to the case. Every
12 single communication she ever sent has a hit of some sort. So
13 you're basically saying for the last five years of her life,
14 she has to turn over every communication she's ever sent, with
15 anyone, including me, including her husband, including doctors,
16 including friends, including family. That's just not fair. It
17 makes no sense.

18 THE COURT: Mr. Carson, I'm doing it because there
19 doesn't seem to have been a process to review. There doesn't
20 seem to have been a sound e-discovery process in place in this
21 case, so I think objections have been waived. If there were
22 privilege issues, I assume that they were logged.

23 MR. CARSON: I've been objecting on the record the
24 entire time.

25 THE COURT: I assume that, for instance,

1 communications between you and Ms. Barbounis have been logged.
2 If there are hits between you and Ms. Barbounis, then yes, you
3 don't have to produce those, but you do have produce a
4 privilege log about them. Okay?

5 Beyond that, it seems to me that the objections as to
6 burden and things like are long since waived.

7 MR. CARSON: I've been making them the entire time.

8 THE COURT: Well, we're at a point, Mr. Carson, that
9 we're -- having not complied with your obligations, regardless
10 of whether you voiced the objection, having not complied with
11 your obligations, I'm deeming them waived. Okay?

12 MR. CARSON: They weren't waived.

13 THE COURT: Or I'm overruling them, whichever verbiage
14 you want to use.

15 But we're at a point where at the end of the case,
16 this should have been dealt with. And I'm ordering them
17 produced.

18 MR. CARSON: I'm going to file a motion for
19 reconsideration. I'll lay out my argument in that then. But I
20 don't think that they should be produced until the issues are
21 briefed, because it's not -- I mean, what you're ordering is a
22 total intrusion into her personal and private life that has no
23 relevance to this case. And it's what they've been after the
24 entire time, since the beginning.

25 I mean, plus, I think there's issues of res judicata

1 or claim preclusion where Judge Sanchez already ordered that
2 that stuff shouldn't be produced in the case.

3 THE COURT: We, Mr. Carson, I don't want to hear claim
4 preclusion and res judicata. That doesn't apply. There are
5 two different cases with different scopes of discovery and
6 different discovery paths. Okay?

7 I mean, if you want to seek reconsideration, you can.
8 I'm going to rule on it very quickly, because I want this dealt
9 with. And my practices and procedures don't require responses
10 to reconsideration. So if you want to do it, do it quickly,
11 because my obligation is still outstanding. And if you run
12 afoul of it, I'm going to be really unhappy.

13 Okay? So my order stands. If you're going to seek
14 reconsideration, you can. I'll look at it quickly. I'll rule
15 on it. But you're going to have to have a really good reason
16 to explain to me not just that it's burdensome, not just that
17 it's intrusive, but you're going to have to explain to me what
18 you did to fulfill your discovery obligations in this case
19 through an evaluation of metadata and email threading or text
20 threading in order to produce stuff with context.

21 MR. CARSON: Your Honor, we produced every single text
22 that was sent between all the relevant parties in this case.
23 All right? And then we got every single one of her devices,
24 social media accounts, email accounts, private storage
25 accounts, imaged. And then we made an argument to produce all

1 the information in those accounts based on keywords.

2 THE COURT: Did you make that agreement in this case,
3 Mr. Carson?

4 MR. CARSON: Yes.

5 MR. WALTON: No.

6 THE COURT: You made that agreement with Mr. Walton?

7 MR. CARSON: Yes.

8 MR. WALTON: No.

9 THE COURT: You better show me the agreement in
10 writing.

11 MR. CARSON: I mean, we referenced the agreement in
12 the hearing, the last hearing, so I guess I'll get a transcript
13 of the hearing to do that too.

14 THE COURT: My order stands. Okay? I'm not going to
15 revisit what I've ordered. That's not my recollection of the
16 last hearing. I have the transcript, I'll take a look at it,
17 but that's certainly not my recollection.

18 If you're going to move for reconsideration, you can,
19 but my order stands.

20 MR. CARSON: Dave Walton and I have a lot of emails
21 back and forth where we discussed that we would produce the
22 information in this way.

23 THE COURT: Okay. Well, I don't know what the emails
24 say, Mr. Carson. If you think that -- if you think you've been
25 compliant with your discovery obligations, you can try to show

1 me, but it sure doesn't look it to me. Based on the
2 conversation I've had earlier today, I don't have any
3 confidence that you really know what's been produced in this
4 case or you've done it in a way that is forensically sound and
5 consistent with your ESI obligation.

6 And so my order stands. I expect you to comply with
7 it. You can move for reconsideration if you want to. If you
8 get it in in time, I'll look at it quickly and we'll see where
9 it stands. Okay? I mean, I'm always hoping to be persuaded,
10 but, you know, you need to continue to proceed as though my
11 order is in place until it's not. Okay?

12 MR. CARSON: Okay.

13 THE COURT: All right. All right. We'll stand
14 adjourned. Thank you.

15 (Proceedings concluded at 12:02 p.m.)

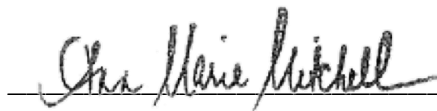
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18 I certify that the foregoing is a correct transcript
19 from the record of proceedings in the above-entitled matter.

20

21



22 Ann Marie Mitchell, CRR, RDR, RMR
23 Official Court Reporter

24

Date: 14th day of November, 2020

25

26

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